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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J. F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203

August 31, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Honorable Brian J. Lawler
Mayor, City of New Bedford
City Hall
New Bedford, Massachusetts 02740

Re: NPDES Permit No. MA0100781

Dear Mayor Lawler:

Enclosed is an Administrative Order issued to the City of New Bedford, Massachusetts by the Regional Administrator of the Environmental Protection Agency ("EPA"), Region I, under Section 309(a) of the Clean Water Act ("the Act"). The Regional Administrator has found that New Bedford has violated Section 301(a) of the Act by failing to comply with certain requirements of its National Pollutant Discharge Elimination System permit. Specifically, the New Bedford Wastewater Treatment Plant has failed to meet effluent limitations and is in need of modifications which will improve flexibility of operation and plant efficiency.

The Order, which is effective upon receipt by the City, establishes a schedule for the construction of the treatment plant modifications as well as for the Howard Avenue Pump Station construction. The Order also requires the City to submit a plan of action and a completion schedule for the construction at the Belleville Avenue Pump Station. We are aware the City is actively working to complete the two pump stations and appreciate this effort, however, EPA wants to insure that these projects are completed in a timely manner.

Failure to comply with the enclosed Order may subject the City to further enforcement action. EPA may initiate a civil action in federal district court for violations of an Order, seeking injunctive relief and civil penalties, pursuant to Section 309(b) of the Act.

If you have any questions concerning this matter, please contact John Cianciarulo, an engineer in the Permit Compliance Section at (617) 223-5330.

Sincerely yours,

Edward K. M. Sweeney

David A. Fierra, Director
Water Management Division

cc: William Gaughan, MDWPC
Phil Ripa, MDWPC-SERO

Acting for

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE August 31, 1984

SUBJECT Administrative Order Issued to the City of New Bedford, Massachusetts

FROM Edward K. McSweeney, Chief
Compliance Branch

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TO See Distribution

The Permit Compliance Section issued an Administrative Order to the City of New Bedford, Massachusetts on August 31, 1984. The City is in violation of the Clean Water Act and its NPDES permit for not meeting BOD and TSS effluent limitations and needs to modify the existing wastewater treatment facilities in order to meet permit limits. Also, the Belleville and Howard Avenue Pump Stations need to eliminate overflows.

The Order requires the City to reapply for a step 3 grant and gives a date by which construction of the treatment plant modifications must commence regardless of the availability of Federal or State funding as per EPA's National Municipal Policy. The Order also contains a schedule for construction at the Howard Avenue Pump Station and requires the City to submit a plan for completion of the Belleville Avenue Pump Station.

If you desire more detailed information regarding this action, please contact engineer John Cianciarulo of my staff at 223-5330.

Distribution

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

IN THE MATTER OF)	DOCKET NUMBER <u>84-36</u>
)	
City of New Bedford, Massachusetts)	FINDINGS OF VIOLATION
NPDES Permit Number MA0100781)	
)	AND
Proceedings under Section 309(a)(3))	
of the Clean Water Act, as amended,)	ORDER FOR COMPLIANCE
33 U.S.C. §1319(a)(3))	

STATUTORY AUTHORITY

This Order is issued pursuant to Section 309(a)(3) of the Clean Water Act, as amended (the "Act"), 33 U.S.C. §1319(a)(3), which grants to the Administrator of the United States Environmental Protection Agency ("EPA") the authority to issue Orders requiring persons to comply with Sections 301, 302, 306, 307, 308, 318 and 405 of the Act and to comply with any permit condition or limitation implementing any of such sections in a National Pollutant Discharge Elimination System ("NPDES") permit issued under Section 402 of the Act. This authority has been delegated to the Regional Administrator.

The Order herein is based on findings of violations of the effluent limitations in the City of New Bedford's NPDES permit. The City is also behind schedule in the construction of the upgrades of two pumping stations. The Order provides schedules for construction of the design modifications to the existing wastewater treatment plant and the two pumping stations, which the Regional Administrator has determined to be reasonable, in accordance with Section 309(a)(5) of the Act.

FINDINGS

The Regional Administrator makes the following FINDINGS of fact:

1. The City of New Bedford ("City") is a municipality organized under the laws of the Commonwealth of Massachusetts.
2. The City of New Bedford owns and operates a publicly owned treatment works ("POTW") which discharges treated wastewater to Buzzards Bay, a Class SA waterway.
3. On December 30, 1974, the City was issued National Pollutant Discharge Elimination System ("NPDES") permit number MA0100781 by the Regional Administrator of EPA Region I, pursuant to the authority of Section 402 of the Act, 33 U.S.C. §1342. The permit expired on July 1, 1977, but remains in effect under the provisions of 40 C.F.R. §122.5 and the Administrative Procedure Act, 5 U.S.C. §558 since New Bedford has made a timely and complete application for renewal.
4. The City's Howard Avenue and Belleville Avenue sewage pumping stations are in need of rehabilitation and modification. The pumping stations have combined sewer overflows (CSOs) which are in violation of the permit requirement that untreated wastewater/stormwater overflow cease as of July 1, 1977.
5. The New Bedford wastewater treatment plant consistently violates its NPDES permit limits for BOD and TSS. The plant needs modifications to improve flexibility of operation, personnel safety and to optimize plant efficiency

which will enable the City to meet its permit limitations. The modifications include a construction of a headworks protective enclosure; relocation of influent pump rotors; modification of piping for sludge, scum, chlorine and centrifuge systems; replacement of primary clarifier weirs; installation of a scum collection system for the chlorine contact chambers; and various other facility improvements such as changes to the facility ventilation and water systems.

6. Based on the Clean Water Act and the National Municipal Policy (NMP) of the U.S. EPA, construction needed to meet effluent limits of NPDES permit must be completed regardless of the availability of federal funds. The City has violated a State Order to construct the above referenced treatment plant modifications.
7. The discharge of pollutants into the waters of the United States, except as authorized by an NPDES permit, is unlawful under Section 301(a) of the Act.

Based on the above FINDINGS it is hereby ORDERED:

1. The City shall complete the rehabilitating modifications to the Howard Avenue pump station, which include new pumps, wet well modifications, new mechanical bar screens, new alarm telemetry and provisions for emergency standby power, according to the following schedule:
 - a. Advertise and open bids by November 1, 1984.
 - b. Review and evaluate bids by November 15, 1984.

- c. Issue notice to proceed by December 31, 1984.
 - d. Complete construction by December 31, 1986.
2. By September 15, 1984, the City shall submit a plan for completion of the rehabilitative of construction of the Belleville Avenue pump station. This plan shall include a report of current status and a schedule for completion of construction. The City shall implement the schedule as approved by EPA.
 3. By November 1, 1984, prepare and submit all necessary documents, reports, facility plans, design plans and specifications for a Step 3 grant for the construction of modifications to the treatment plant so that the Massachusetts Division of Water Pollution Control and the EPA can make a determination of eligibility and availability of funds for such a grant.
 4. By August 1, 1985, commence construction of the previously referenced modifications to the existing wastewater treatment plant, described in paragraph 5 of the FINDINGS section above, and submit a schedule for completion of the project for review and approval by EPA. The City shall implement the schedule for completion of the project as approved by EPA. Such schedule shall be an enforceable requirement of this Administrative Order. Construction shall proceed in accordance with the approved schedule regardless of the availability of State or Federal funds for the project.

5. Beginning January 3, 1985, the City shall submit to EPA and MDWPC a semi-annual progress report covering the aforementioned projects. These reports shall be submitted each January and July until compliance is achieved.
6. Within 60 days of completion of construction of the design modifications, the City shall comply with the effluent limitations contained in its NPDES permit.

NOTIFICATION PROCEDURES

1. Where this Order requires a specific action to be performed within a certain time frame, the City shall submit a written notice of compliance or noncompliance with each deadline. Notification shall be mailed within seven days after each required action.
2. If noncompliance is reported, notification shall include the following information:
 - a. A description of the noncompliance;
 - b. A description of any actions taken or proposed by the permittee to comply with the elapsed schedule requirements.
 - c. A description of any factors which tend to explain or mitigate the noncompliance;
 - d. An approximate date by which the City will perform the required action.

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The reports shall be in writing and addressed as follows:

Environmental Protection Agency
Water Management Division
JFK Federal Building - Room 2103
Boston, Massachusetts 02203

Massachusetts Division of Water Pollution Control
One Winter Street
Boston, Massachusetts 02108
Attn: William Gaughan

Massachusetts Division of Water Pollution Control
Southeast Region
Lakeville Hospital
Lakeville, Massachusetts 02346
Attn: Phil Ripa

The City may, if it desires, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 CFR §2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent and by means of the procedures set forth in 40 CFR Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to the City. The City should read the

above cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. For example, the Clean Water Act provides the "effluent data" shall in all cases be made available to the public. See 33 U.S.C. §1318(b).

The information request contained herein is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §3501 et seq.

Date: Aug 31, 1984

Paul Keough, Acting
Michael R. Deland
Regional Administrator

NDPT 003